

EXHIBIT D

Plaintiffs' First Set of Interrogatories to Operator Defendants

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD GIBSON, and HERIBERTO
VALIENTE, *on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

MGM RESORTS INTERNATIONAL,
CENDYN GROUP, LLC, THE RAINMAKER
GROUP UNLIMITED, INC., CAESARS
ENTERTAINMENT INC., TREASURE
ISLAND, LLC, WYNN RESORTS
HOLDINGS, LLC,

Defendants.

Case No. 2:23-CV-140-MMD-DJA

**PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO OPERATOR
DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 33, Plaintiffs Richard Gibson and Heriberto Valiente (collectively “Plaintiffs”) hereby request that Hotel Operator Defendants MGM Resorts International, Caesars Entertainment, Inc., Treasure Island, LLC, and Wynn Resorts Holdings, LLC, answer the following Interrogatories separately and fully, in writing and under oath, and in accordance with the following instructions and definitions, within 30 days of the date of service.

I. DEFINITIONS

The following definitions shall apply to these Interrogatories:

1. “Document” has the same meaning as in the Federal Rules of Civil Procedure and includes, without limitation, the original and all non-identical copies of all writings, including, without limitation, handwritten, typed, printed or electronically stored electronic material. Each and every draft of a Document is a separate Document for purposes of these document requests.

2. “Defendant” means the responding Defendant, including any predecessors, wholly-owned or controlled subsidiaries or affiliates, successors, parents, other subsidiaries, departments, divisions, and any organization or entity that the responding Defendant manages or controls.

3. “Employee” means without limitation, any current or former owner, representative, officer, director, executive, manager, employee, secretary, staff member, messenger, agent or other person who is or was employed by Defendant and any controlled subsidiaries, or any person or purporting to act on Defendant’s behalf.

4. “And” and “or” are to be read interchangeably so as to give the broadest possible meaning to a particular request in which either or both is used.

5. “Identify” means to provide sufficient information so that the subject matter can be located, including but not limited to the present or last known address, contact information, relevant time period for each entity, and any and all individuals affiliated with the entity(ies) or involved with participation with a particular entity on Your behalf. When used with respect to a person, “Identify” shall mean to give, to the extent known, the person’s full name, present or last known address, telephone number. Once a person has been identified in accordance with this

1 instruction, only the name of that person need be listed in response to subsequent Interrogatories
2 requesting the identification of that person.

3 6. “Including” should not be construed as limiting the request in any way and
4 therefore means “including, but not limited to,” or “including without limitation.”

5 7. “You,” “Your,” or “Your company” means the responding Defendant, including
6 any predecessors, wholly-owned or controlled subsidiaries or affiliates, successors, parents, other
7 subsidiaries, departments, divisions, joint ventures, other affiliates and any organization or entity
8 that the responding Defendant manages or controls.

9 8. “Hotel” means an establishment located on or near the Las Vegas Strip Hotel
10 Market that provides accommodations, casino services, and occasionally entertainment and other
11 services.

12 9. “Hotel Operator” refers to any person or entity that manages or operates a hotel in
13 the Las Vegas Strip Hotel Market as defined in the Class Action Complaint, which includes but
14 is not limited to the named Defendants in the present action: MGM Resorts International,
15 Caesars Entertainment, Inc., Treasure Island, LLC, and Wynn Resorts Holdings, LLC.

16 10. “Hotel Supply Factors” refers to the ways in which Defendants control the supply
17 of hotel rooms, including capacity reductions, controlling occupancy rates, and limiting
18 promotions in the Las Vegas Strip Hotel Market.

19 11. “Operator Defendants” refers to Defendants MGM Resorts International; Caesars
20 Entertainment Inc.; Treasure Island, LLC; and Wynn Resorts Holdings, LLC.

21 12. “Pricing Algorithm” refers to any profit optimization software, platforms,
22 systems, or processes, You access, use, or distribute, that inputs data and information and
23 compares, forecasts, recommends, or summarizes pricing for clients in the Las Vegas Strip Hotel
24 Market, including but not limited to Rainmaker’s GuestRev, Revcaster, GroupRev, and RevIntel
25 services.

26 13. “Owner” refers to any entity or person who owns 1% or more of You and/or Your
27 wholly-owned or controlled subsidiaries or affiliates or from whom You collectively borrowed
28 or received funds totaling in excess of \$10 million from January 1, 2009 through the present.

1 (e.g., letter, memorandum, telegram, contract, invoice, etc.), its date and author(s), its custodian,
2 and every person to whom such document or any copy thereof was given or sent. For all
3 Documents produced pursuant to Rule 33(d), Identify the name of the employer, officer, or agent
4 certifying the documents as business records.

5 3. Answers to these Interrogatories are to be based upon all knowledge or
6 information available to You, Including, but not limited to, all information or knowledge
7 derivable from business or other records, and all knowledge or information possessed by any
8 person, Including but not limited to any Employee, agent, attorney, expert witness, consultant,
9 representative, or other advisor, subject to the instruction, direction or control of You.

10 4. If only part of the Interrogatory is objectionable, the remainder of the
11 Interrogatory shall be answered.

12 5. If the Interrogatory cannot be answered completely, it must be answered to the
13 fullest extent possible. If You do not have personal knowledge sufficient to respond fully to the
14 Interrogatory, You shall so state, but shall make a reasonable and good faith effort to obtain the
15 information by inquiry to other natural persons or organizations.

16 6. If You withhold any answer to the following Interrogatories, in whole or in part,
17 for any reason, including a claim of privilege or other protection from disclosure such as
18 attorney-client privilege, the work-product doctrine, or business confidentiality or trade-secret
19 protection, set forth separately with respect to each such Interrogatory: (a) the nature of the
20 privilege or ground of confidentiality claimed; (b) each and every basis upon which such
21 privilege is claimed or under which the response is withheld; (c) the general subject matter of the
22 withheld information; (d) such other information as is sufficient to identify the withheld
23 information and the sufficiency of the grounds for withholding the information on the basis of
24 privilege, including the names of every person or entity who has been privy to such information.

25 7. The Relevant Time Period for each of the requests below is from January 1, 2014
26 to the present unless otherwise stated.

III. INTERROGATORIES

INTERROGATORY NO. 1:

Identify Your corporate structure and ownership, including the names and relevant ownership interests related to all of Your wholly-owned or controlled subsidiaries or affiliates, successors, parents, and Owners.

INTERROGATORY NO. 2:

Identify each Employee within Your organization that has knowledge regarding Rainmaker's Pricing Algorithms. For each individual identified include the specific knowledge that they have, the hotels that they were associated with as Employees, all email addresses, social or industrial/business web-based media accounts (e.g., Facebook®, Twitter®, LinkedIn®, Instagram®, Snapchat®, Cluster®, or WhatsApp®), cellular phone numbers, office phone, and facsimile numbers, or other telephone numbers (and applicable phone carriers for each telephone number) used by each such Employee regarding or relating to his or her work for You.

INTERROGATORY NO. 3:

Describe Your use of Rainmaker, including the Hotels that participated, the dates of participation, the specific Rainmaker services used, Including Pricing Algorithms such as GuestRev, GroupRev, Revintel, and Revcaster.

INTERROGATORY NO. 4:

For each Pricing Algorithm service in which You participated, provide the following information from January 1, 2014 through the present:

- a. Each person who regularly communicated regarding any Pricing Algorithm service, reviewed, received, or used information received from any Pricing Algorithm service, prepared information for transmission to any Pricing Algorithm service, attended meetings with individuals from Rainmaker, or attended meetings at which information from any Pricing Algorithm was discussed.
- b. Date range of participation (specifying month and year) and any circumstance in which You cancelled, commenced, or altered any participation in any Rainmaker services;
- c. The total annual amount of money You paid to the provider of the Pricing Algorithm service;
- d. The Hotels that participated;

- e. The Hotels Operators that You were aware that participated;
- f. A detailed description of the data You provided, including whether it related to hotel rooms pricing, marketing, occupancy, and/or sale data, any changes to the type or detail of the data provided over time, the date of the change, and the reason for the change;
- g. A detailed description of the data, reports, or service You received, including the frequency of reports received, any changes to the type or detail of the data, or reports, or service received, the date of the change, and the reason for the change; and
- h. A description of the terms of any agreements or contracts relating to participation in the Pricing Algorithm service.

INTERROGATORY NO. 5:

Identify each Meeting organized, hosted, or coordinated by Rainmaker and attended by You or any of Your Employees and also attended by one or more Employees of a Hotel Operator, during which a Pricing Algorithm was discussed, Including when and where it occurred, whom from Your company attended, the subjects discussed, how frequently the meeting occurred, and any Documents (e.g., agendas, minutes, or notes) that relate to the content of what was discussed at the Meeting.

INTERROGATORY NO. 6:

Explain the process by which the price You rent Hotel rooms in the Las Vegas Strip Hotel Market is determined, and Identify by name and title the persons involved in making that determination, including any Employees and/or representatives.

1 DATED: May 8, 2023

Respectfully submitted,

2 HAGENS BERMAN SOBOL SHAPIRO LLP

3 /s/ Steve W. Berman

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Counsel for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2023, I caused the foregoing Plaintiffs' First Set of Interrogatories to Operator Defendants to be served upon counsel of record via electronic mail.

DATED: May 8, 2023

/s/ Steve W. Berman
Steve W. Berman